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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,608	04/01/2004	John R. Owens	AVERP3538USA	9685
7590	06/12/2006			
Cynthia S. Murphy Renner, Otto, Boisselle & Sklar, LLP Nineteenth Floor 1621 Euclid Avenue Cleveland, OH 44115-2191			EXAMINER KUMAR, RAKESH	
			ART UNIT 3654	PAPER NUMBER

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/815,608	<b>Applicant(s)</b> OWENS, JOHN R.	
	<b>Examiner</b> Rakesh Kumar	<b>Art Unit</b> 3654	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Application filed 04/01/2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. 60/460,271.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>07/02/2004</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “pads can function as chucks” as disclosed in claim 12, line 3, “spacer” as disclosed in claim 13, line 1 and “two cutting blades” in claim 16, line 2 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 12 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Referring to claim 12. Claim 12 recites the limitation “whereby the pads can function as chucks” on line 3. It is unclear as to how the “circular pads” as disclosed by in Figure 1 on the Applicant’s drawings could function as chucks when the pads will clearly rotate when the sheet is pulled in the P direction. Appropriate action is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-14 and 22-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirkup et al. (U.S. Patent Number 4,651,911).

7. Referring to claims 1 and 4-6. Kirkup discloses a dispensing device (Figure 1) comprising a dispensing box (1), a roll of a sheet-like packaging material (94) positioned within the box (1), and a cutting edge (34; Figure 1); the box comprising a series of sides (Figure 2) and a dispensing slot (64) on one of said sides (52); the roll including a leading portion (leading edge of sheet; Figure 1) which is inserted through the dispensing slot (64) and pulled in a pulling direction; the cutting edge (34) being positioned downstream of the dispensing slot (64) relative to the pulling direction whereby the packaging material can be dispensed in a desired length to suit the packaging needs of a particular item and then cut to this desired length by the cutting edge.

Regarding claim 2, Kirkup discloses a dispensing device (Figure 1) wherein the sides are rectangular and form a rectangular prism shape (Figure 1).

Regarding claim 3, Kirkup discloses a dispensing device (Figure 1) wherein the sheet material (94) is coiled around a core (95) and wherein the leading portion (leading edge of sheet; Figure 1) is remote from the core (95).

Regarding claims 7-10, Kirkup discloses a dispensing device (Figure 1) wherein the dimensions of the roll correspond to the dimensions of the box (Figure 1-5).

Regarding claims 11-14, Kirkup discloses a dispensing device (Figure 1) wherein the roll includes a hollow core (95) and wherein core-supporting pads (90; Figure 4 and 5) are inserted into each end of the core (95), wherein the pads (90) have mounting portions preferably dimensioned to fit snugly within certain box sides (Figure 5) whereby the pads (90) can function as chucks (can support the roll and resist in rotation as the sheet roll rotates between the two pads) when the roll (94) is inserted into the box (1; Col. 3 line 18-27), wherein a spacer (the outer surface of member 90 in contact with side 14; Figure 4) is positioned between one of the pads (90) and the adjacent side of the box (14), wherein the pads (90) are made of plastic (Col. 3 line 29 and 30), wherein the cutting edge (34) is positioned adjacent to an edge of the wall (52) having the dispensing slot (64).

Regarding claim 22, Kirkup discloses a dispensing device (Figure 1) wherein the blank (as see in Figure 2) comprising a series of panels; wherein the box (1) comprises a first side (52), a second side (22), a third side (10), a fourth side (30), a fifth side (14 left side; Figure 1), and a sixth side (14 right side; Figure 1); wherein a certain panel forms the first side, a certain panel forms the fourth side, a certain panel forms the second side, and a certain panel forms the third side; wherein certain panels form the fifth side and certain panels form the sixth side; and wherein panels overlay the second side of the box (see folded box configuration).

Regarding claim 23, Kirkup discloses a dispensing device (Figure 1) wherein the certain panels are connected together by fold lines (16, 28 and 56; Figure 2), other certain panels are connected together by fold lines, and other panels are connected

together by double fold lines (38); wherein certain panels are separated by cut-lines (see space between panels 14 and 26), and wherein certain panels are separated by gaps (see gap between 20 and 40).

Regarding claim 24, Kirkup discloses a dispensing device (Figure 1) comprising a closing tab (58), locking tabs (54), and connecting tabs (extended portion of tab 20, beyond line 38); wherein the closing tab extends outward from the distal edge of the panel forming the first side (52) of the box (1); wherein the locking tabs (54) extend outward from the lateral edges of the panel forming the first side (52) of the box (1); and wherein the connecting tabs (extended portion of tab 20, beyond line 38) extend outward from the distal end of the panel forming the fifth (14) side of the box (1).

Regarding claim 25, Kirkup discloses a dispensing device (Figure 1) wherein a fold line (60) and two notches (76) are positioned between the closing tab (58) and the panel form the first side (52) of the box (1).

Regarding claim 26, although Kirkup does not explicitly disclose a method of using his apparatus, the method steps recited in the claim would inherently by performed when using the apparatus of Kirkup in its usual and expected fashion when the dispenser is used to hold wrappings.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3654

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirkup.

10. Referring to claims 16 and 17. Kirkup discloses a dispensing device (Figure 1) comprising a single cutting edge (34); in addition Kirkup teaches that different materials can be used to produce the desired cutting edges depending of the product being dispensed (Col. 2 line 40-55).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kirkup and include a cutting edge such that there are two cutting blades disposed on the dispenser because the two blades would make tearing the sheet easier.

It would have been further obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kirkup and include a cutting edge made of plastic material thus specifically tailoring the cutting edge to the product being dispensed.

11. Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirkup as applied to claim 17 above, and further in view of Winston (U.S. Patent Number 5,307,717).



12. Referring to claims 18 and 19. Winston discloses a dispensing carrier (Figure 1) comprising a handle (2) mounted onto the side of the dispenser.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kirkup and include handle as taught by Winston because the dispensing device could be made more easier to be carried.

Regarding claims 20 and 21, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kirkup and include the dimensions of the dispenser to be 12x9x9 or 24x9x9 because a larger housing of the dispenser would allow a larger sheet roll to be installed.

### ***Conclusion***

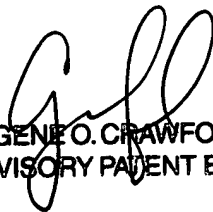
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure see addition cited references.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rakesh Kumar whose telephone number is (517) 272-8314. The examiner can normally be reached on 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RK  
June 7, 2006

  
GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER